

LINDSAY K. CULLEN, ESO.

Nevada Bar No. 12364

NOVEMBER 20 NO. 11550

Nevada Bar No. 5904

## BERTOLDO BAKER CA

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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

HOWARD RONALD TUBIN, individually,

CASE NO.: 2:20-cv-02347-APG-DJA

**Plaintiff.**

v.

DEPUY SYNTHERS SALES, INC., d/b/a  
DEPUY SYNTHERS JOINT  
RECONSTRUCTION; DEPUY SYNTHERS  
INC.; JOHNSON & JOHNSON; DEPUY  
ORTHOPAEDICS, INC.; STRYKER  
CORPORATION; HOWMEDICA  
OSTEONICS CORPORATION d/b/a  
STRYKER ORTHOPAEDICS; AAP  
IMPLANTS, INC.; DOES 1 through 15,  
inclusive; and ROE BUSINESS ENTITIES 1  
through 15, inclusive.

## STIMULATED MOTION TO EXIT

**STIPULATED MOTION TO EXTEND  
TIME TO RESPOND TO COMPLAINT**

**(Sixth Request)**

### Defendants.

Plaintiff HOWARD TUBIN, by and through his attorneys of record, Lindsay K. Cullen, Esq., and Brett A. Carter, Esq., of BERTOLDO, BAKER, CARTER AND SMITH, and Defendants, DEPUY SYNTHES SALES, INC. d/b/a DEPUY SYNTHES JOINT RECONSTRUCTION; DEPUY SYNTHES INC.; JOHNSON & JOHNSON; and DEPUY ORTHOPAEDICS, INC. (collectively, “DePuy Defendants”), through their counsel, BARNES & THORNBURG LLP and

1 KAEMPFER CROWELL, and states that they met and conferred to discuss the pending dispute and  
2 hereby stipulates as follows:

3 **WHEREAS**, on or around December 31, 2020, Plaintiff commenced this action by filing a  
4 First Amended Complaint as ECF 4 in the United States District Court for the District of Nevada,  
5 *Howard Ronald Tubin v. DePuy Synthes Sales, Inc., et al.*, 2:20-cv-02347-APG-DJA;

6 **WHEREAS**, DePuy Defendants responsive pleadings was due to Plaintiff's Complaint on  
7 or before January 25, 2021;

8 **WHEREAS**, on January 22, 2021, the parties filed their Stipulated Motion to Extend Time  
9 to Respond to Complaint as ECF 14 extending the answer/responsive pleading deadline to February  
10 24, 2021 (*First Request*).

11 **WHEREAS**, on February 22, 2021, the parties filed their Stipulated Motion to Extend Time  
12 to Respond to Complaint as ECF 33 extending the answer/responsive pleading deadline to March  
13 26, 2021 (*Second Request*).

14 **WHEREAS**, on March 26, 2021, the parties filed their Stipulated Motion to Extend Time to  
15 Respond to Complaint as ECF 48 extending the answer/responsive pleading deadline to May 25,  
16 2021 (*Third Request*).

17 **WHEREAS**, on May 25, 2021, the parties filed their Stipulated Motion to Extend Time to  
18 Respond to Complaint as ECF 52 extending the answer/responsive pleading deadline to July 25,  
19 2021 (*Fourth Request*).

20 **WHEREAS**, on July 26, 2021, the parties filed their Stipulated Motion to Extend Time to  
21 Respond to Complaint as ECF 54 extending the answer/responsive pleading deadline to September  
22 7, 2021 (*Fifth Request*).

23 **WHEREAS**, the Parties, by counsel, have engaged in good faith efforts to resolve this matter  
24 without the need for further litigation, and are in the process of finalizing settlement documents and  
25 filings, and for good cause hereby appearing, the Parties agree and stipulate to extend the time for  
26 the Parties to finalize such settlement resolution documents for sixty (60) days.

1           **IT IS THEREFORE STIPULATED AND AGREED** by Plaintiff and DePuy Defendants,  
2 by and through their respective counsel, and the Court is respectfully requested to order that:

3           The Parties may have an extension of sixty (60) days from September 8, 2021 to finalize all  
4 settlement documents. Plaintiff and DePuy Defendants must complete and finalize such documents  
5 by **November 8, 2021**.

6           Dated this 8<sup>th</sup> day of September 2021.

7           **BERTOLDO BAKER CARTER & SMITH**

7           **KAEMPFER CROWELL**

8           /s/ Lindsay K. Cullen

9           LINDSAY K. CULLEN, ESQ.  
10          Nevada Bar No. 12364  
11          BRETT A. CARTER, ESQ.  
12          Nevada Bar No. 5904  
13          PAUL R.M. CULLEN, ESQ.  
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15          7408 W. Sahara Avenue  
16          Las Vegas, NV 89117  
17          *Attorneys for Plaintiff*  
18          Howard Tubin

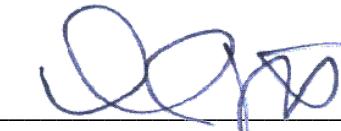
8           /s/ Robert McCoy

9           ROBERT MCCOY, ESQ.  
10          Nevada Bar No. 009121  
11          1980 Festival Plaza Drive, Suite 650  
12          Las Vegas, NV 89135-2958  
13          *Attorneys for Defendants, Depuy Synthes Sales, Inc. dba, Depuy Synthes Joint Reconstruction; Depuy Synthes Inc.; Johnson & Johnson, and DePuy Orthopaedics, Inc.*

15           **ORDER**

16           **IT IS SO ORDERED.**

17           DATED this 9th day of September 2021.



18  
19  
20          Daniel J. Albrechts  
21          United States Magistrate Judge

22          Prepared and Submitted by:

23           **BERTOLDO BAKER CARTER & SMITH**

24           /s/ Lindsay K. Cullen  
25          LINDSAY K. CULLEN, ESQ.  
26          Nevada Bar No. 12364  
27          BRETT A. CARTER, ESQ.  
28          Nevada Bar No. 5904  
29          7408 W. Sahara Avenue  
30          Las Vegas, NV 89117  
31          *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 8th day of September 2021, I electronically filed the **STIPULATED MOTION TO EXTEND TIME TO RESPOND TO COMPLAINT (SIXTH REQUEST)** the Clerk of Court using the CM/ECF system for filing and transmittal of Notice of Electronic Filing to all parties and counsel identified on the Court generated Electronic Filing System and via electronic mail to the following:

<p>James F. Murdica Erin M. Pauley <b>BARNES &amp; THORNBURG LLP</b> One North Wacker Drive, Ste. 4400 Chicago, IL 60606 (312) 214-4598 <a href="mailto:jmurdica@btlaw.com">jmurdica@btlaw.com</a> <a href="mailto:epauley@btlaw.com">epauley@btlaw.com</a></p>	<p>Jay J. Schuttert Justin S. Hepworth <b>EVANS FEARS &amp; SCHUTTERT, LLP</b> 6720 Via Austi Parkway, Ste. 300 Las Vegas, Nevada 89119 <a href="mailto:jschuttert@efstriallaw.com">jschuttert@efstriallaw.com</a> <a href="mailto:jhepworth@efstriallaw.com">jhepworth@efstriallaw.com</a></p>
<p>Robert McCoy Sihomara L. Graves <b>KAEMPFER CROWELL</b> 1980 Festival Plaza Drive, Suite 650 Las Vegas, NV 89135-2958 (702) 792-7000 <a href="mailto:rmccoy@kcnvlaw.com">rmccoy@kcnvlaw.com</a> <a href="mailto:sgraves@kcnvlaw.com">sgraves@kcnvlaw.com</a></p> <p>Attorneys for Defendants, Depuy Synthes Sales, Inc. dba, Depuy Synthes Joint Reconstruction; Depuy Synthes Inc.; Johnson &amp; Johnson; DePuy Orthopaedics, Inc.</p>	<p>Matthew Bernstein Ryan Killian Benjamin Walther <b>SHOOK, HARDY &amp; BACON, L.L.P.</b> 600 Travis, Suite 3400 Houston, Texas 77002</p>
	<p>Citigroup Center 201 South Biscayne Blvd., Ste. 3200 Miami, Florida 33131 <a href="mailto:mbernsstein@shb.com">mbernsstein@shb.com</a> <a href="mailto:rkillian@shb.com">rkillian@shb.com</a> <a href="mailto:bwalther@shb.com">bwalther@shb.com</a></p> <p>Nicholas Deutsch <b>CRUMP &amp; DEUTSCH, PLLC</b> 2825 Wilcrest Drive, Ste. 216 Houston, Texas 77042 <a href="mailto:ndeutsch@cdlawtx.com">ndeutsch@cdlawtx.com</a></p> <p>Attorneys for Defendant Howmedica Osteonics Corp</p>

/s/ Rachel Douglas

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An Employee of Bertoldo Baker Carter & Smith